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IN THE

Supreme Court of the United States

OCTOBER TERM, A.D. 1963

No. 8[illegible]

MARGARET CHENOWETH, ET AL.,

Petitioners,

vs.

PAN AMERICAN PETROLEUM CORPORATION and THE CORPORATION COMMISSION OF THE STATE OF OKLAHOMA,

Respondents.

Petition For A Writ Of Certiorari To The Supreme Court Of The State Of Oklahoma

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Petitioners, Margaret Chenoweth, Stuart Hertz, Elnabelle Hertz, Anita Hoffman, Joseph Hoffman, Ward Holcomb, Loretta Holcomb, George Pyne, Esther Pyne, Victor Roterus, Florence Roterus, Joseph Schonthal, Shirley Schonthal, Eva R. Simons and Herbert A. Hoffman, pray that a writ of Certiorari be issued to review the judgment of the Supreme Court of Oklahoma, entered in the above case May 7, 1963.

OPINION BELOW

The opinion of the Oklahoma Supreme Court, reprinted in Appendix A hereto p. 1a, is reported at ..... P. 2d .....

The report and order of the Oklahoma Corporation Commission entered April 15, 1960, reprinted in Appendix B hereto p. 7a, is unreported.

JURISDICTION

The Judgment of the Oklahoma Supreme Court was entered May 7, 1963. Timely Petition for Rehearing was filed May 20, 1963 and was denied June 18, 1963. This petition is filed within the ninety day period provided therefore. The jurisdiction of this Court is invoked under 28 U.S.C. Sec. 1254(3).

QUESTIONS

[1] Two different purpose applications for unitization are involved. The First was abandoned and its notice became functus officio and died. The hearing was on the Second for which there was no prerequisite published statutory notice.

Question: Is a new hearing based on a new notice necessary? Does the participation by the Petitioners in the hearings before the Commission, then, thereafter learning that the Commission was without jurisdiction at all, cure the fatal defect in the Commission's jurisdiction to act?

[2] The purpose of the Oklahoma Unitization Act is conservation of oil, a strategic natural resource. When the con-

servation need is "desirable and necessary," a State approved monopoly may be created to effectuate the purpose of the Act. The economy and in time of emergency, the national security may be involved.

Question: Can the police power of the State be invoked to serve the private profit structure of Pan American for a period of 7 years before the conservation need, the justifying public purpose, comes into existence, if at all?

[3] Eight tracts were capable of producing the Oil Creek. The Oil Creek was produced under the rule of capture from 7 tracts. The Willens B, the eighth tract, was withheld for salvage. Thereby, it was denied production under the rule of capture prior to unitization; and thereafter under the unit, it was denied 6.25% of the total unit production because it was withheld for salvage.

Question: Can a lessee who, in effect is a single trustee controlling a number of identical trust properties that are common to the same trust, grant treatment to 7 wells and tracts as a matter of right and arbitrarily withhold the same treatment from the eighth well and tract in the same class?

[4] The then practice was to make and accord to all wells and tracts a directional (slant hole) survey, essential to compute each tract's acre feet % in the Unit. The Willens A1 Tract 7, was excluded; admittedly, the well sand thickness and acre feet of pay assigned to the Willens A1 well and Tract 7, are erroneous, arbitrary and without basis. The Oklahoma Supreme Court holds that the assignment of erroneous well sand thickness to a well on a tract in a unit for secondary recovery, takes property without due process and denies equal protection under the Federal Constitution, 14th Amendment.

Question: Under like circumstances, where the same Federal right has been especially set up and claimed, can the protection of the Petitioners' Federal right be denied?

CONSTITUTIONAL AND STATUTORY PROVISIONS AND RULES INVOLVED

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STATEMENT

[1-2] This cause originates under the Oklahoma Unitization Act, 52 O.S.A. 287.1 to 287.15, administered by the Oklahoma Corporation Commission. The purpose of the Act is conservation of oil and gas. To effectuate the purpose, a private monopoly is permitted to exist and function under the State's administrative sanction, if the conservation need is "desirable and necessary."

On April 15, 1960, the Act was used to create a non-conservation purpose unit that exists for 7 years before the conservation need takes into effect, the Pan American Eola NW Block Oil Creek sand unit; comprised of eleven 40 acre tracts, an area of 440 surface acres of which 363 acres are productive. Pan American, individually as to some and as a partner in others, owns, controls and operates all of the leases it seeks to unitize. A unilateral elective right is retained by Pan American to operate the Unit for private purpose and private profit and to invalidate the unit at any time before or after the conservation need takes into effect. (R. 256, Plan, p. 26):

> "*27.2 Termination by Operating Committee.* This Plan of Unitization may be terminated by the Operating Committee whenever such Committee determines that unit operations are no longer profitable, feasible or in the interest of conservation."

Two Applications to Unitize are involved. The First Application was filed November 13, 1959, it bears the Commission's filing stamp and is composed of two pages; page one, states the purpose, the conservation need, to-wit (Ap. 20a):

> "3. That said area is substantially depleted of oil and gas producible by primary means * * *"

This concerns the recovery of 569,300 barrels of secondary conservation oil. The mandatory prerequisite statutory notice of the hearing to be had on the First Application was published (Ap. 20a).

Subsequently, on November 16 or 17, 1959, the First Application was withdrawn and abandoned and the notice thereon became functus officio and died. Pan American, without notice or authority, arbitrarily removed and never returned to the Commission files, page one of its November 13, 1959 First Application and replaced it with a new and different purpose first page. It cannot be considered as a correction or amendment since it did not comply with Rules 1 and 6 which provide that once an Application has been filed, it can be corrected only on order of the Commission, Ap. 19a; any other method constitutes creating a special rule for a special case, prohibited under Oklahoma law. There then was nothing pending before the Commission on which it could act.

If the November 16 or 17 substituted page one is presumed to be the filing of a Second Application, then there is no mandatory prerequisite published notice of the hearing to be had thereon; the notice for the November 13, 1959 Application having become functus officio, cannot be revived to serve the new and different purpose November 16 or 17, Application.

The Second Application upon which the Oil Creek unit was created and operates, replaces the "desirable and necessary" conservation need with the Pan American desire to control the non-conservation primary oil under the monopoly authority during the period of time when the conservation need is not present, Ap. 20a.

> "That in order to delay the depletion of the reservoir energy, it is desirable to initiate some form of repressuring * * *"

Starting October 1959, 1,235,700 barrels of primary non-conservation oil must be recovered before the secondary recovery of 569,300 barrels of conservation purpose oil takes into effect. Based on estimated allowable and time of recovery at the rate of 175,000 barrels per year, it will take 7 years, or until 1967 before the secondary takes into effect, if at all.(1)

[3] An Oil Creek well that Pan American elects to test during the 3 month period of March, April and May 1958, shares equally in 50% of the Unit formula for participation. If 8 wells are tested, each is credited with 6.25% of the total unit production. The then practice in the field was to put the Oil Creek on production as an adjunct oil zone, dual completed to produce with either the Bromide or the McLish oil zones; Pan American established the practice. The Willens B wells which could meet these requirments, wrongfully, were excluded. The sequence in which the wells were drilled appears at Ap. 22a.

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(1) Mr. Paul Tiemeier, Pan American staff engineer, Cross Examination (R. 78, 79):

Q. Will you give me that figure please? A. We estimate that the increased recovery which will be obtained through secondary recovery operations will be 569,300 barrels of oil.

* * * * *

Q. How much more do you estimate you will recover by primary methods before your secondary recovery takes into effect? A. As of October 1st, 1959, we estimate that the future primary recovery at 1,235,700 barrels, which gives an ultimate primary recovery of 2,155,700 barrels.

* * * * *

Q. Your ultimate primary, but by including your estimated secondary, the total recovery would be 2,700,000 barrels, approximately? A. Yes, that's correct.

Pan American drilled on its own or as a partner, a total of 12 Oil Creek wells on 8 tracts, which included the Willens B1 Tract 6. It put 7 wells on 7 tracts on Oil Creek production and changed its procedure for the Willens B1 Tract 6, the 8th well and tract by electing to withhold the Oil Creek for salvage; instead of an Oil Creek dual completion with either the Bromide or the McLish, the Willens B2 well was dual completed in the Bromide and the McLish as offset protection against the Willens A1, Tract 7.

Subsequently, the offset Willens A1 was converted into a single completion that was used to produce the McLish only, the Bromide being shut in; and the Willens A2 also an offset, was drilled and used to produce dually, the Bromide and the Oil Creek. At this time the offset obligation to protect the Willens B Tract 6 Oil Creek against the Willens A Tract 7, Oil Creek, became due and owing. It was the then duty of Pan American not to discriminate against the Willens B wells and Tract 6, but to convert the Willens B1 into a single completion used to produce the McLish only and to shut in the Bromide; and then, timely to drill and dual complete the Willens B2 well to produce the Bromide and the Oil Creek.

We are not here concerned with the drilling of a new well at a cost of $300,000 (100,000 barrels at $3) to test or produce the Oil Creek.[2] Our concern is with the two wells on the

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[2] *Chenoweth et al* v. *Pan American Petroleum Corporation* (1963), 314 F. 2d 63, 65, 66. This action is between the same parties; it sought cancellation and money damage for failure to produce the Willens B lease Tract 6 (no other lease or tract involved) before the expiration of the primary term, July 18, 1957 and March 27, 1958 (two separate leases covering the same tract); and before the instant unitization proceeding was initiated, November 13, 1959. The Court held that a prudent operator would not drill a well

Willens B Tract 6, each of which has already been drilled and cased into the Oil Creek. The Willens B1, with casing set through 53 feet of net pay sand, needed only to be perforated to be tested or produced at no additional cost if done when drilled, at about $12,000 if done later, to get back $77,562, a substantial profit (25,854 bbls at $3 Pan American figures) plus bonus oil, an additional profit under the rule of capture. The Willens B2, required to be deepened 500 feet to test or produce 70 feet of net pay sand projected, at a cost of $13,792.

The Willens B1 completed May 24, 1955, was the second well drilled during the Oil Creek development program (Ap. 22a). On August 7, 1957, Petitioners requested that the Oil Creek be produced. On February 12, 1958, Pan American replied that they could not develop the Oil Creek on the Willens B Tract 6, because the Willens B1 had encountered the Oil Creek at the oil-water contact; a direct written misrepresentation to the effect that the well had zero feet of well sand thickness above water. This condition never existed. When Pan American wrote its February 12, 1958 letter, it had known for almost 3 years under their figures, the Willens

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(2) *Continued*

from top to bottom at a cost of $250,000 to produce 25,854 barrels at $3; that the Unitization order could not be litigated in the Federal Court while it was pending on appeal before the Oklahoma Supreme Court; *and pointed a means of measuring the duty of equal treatment, p. 65. "In cases questioning the development done by an operator under the prudent operator rule, the actions of the operator are examined item by item. This is essentially a comparison of his acts with standards or practices then prevailing in the area, all in the context of economics."* (Emphasis added)

B1 well had 28 feet of net pay well sand thickness above water, that they had recommended that it be produced;[9] and then

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[9] Exh. 33, Letter Feb. 12, 1958 (R. 266-267):

"* * * The Oil Creek sand was drilled, logged and eased off in Willens "B" Well No. 1. It was thought at the time of drilling that the Oil Creek might be productive. Subsequent testing of the Oil Creek in Shippey No. 1 and Willens "A" #2 revealed that the top of the Oil Creek sand in Willens "B" #1 was encountered at the approximate oil-water contact. * * * We, therefore, cannot develop the Oil Creek on the Willens "B" Lease." * * *

Mr. Paul Tiemeier, Cross Examination March 8, 1960 (R. 90, 91):

Q. On your calculations then there were 30 feet of effective Oil Creek in place under the Willens B, is that right? A. Approximately, yes.

Q. You knew that by reason of drilling the well, didn't you? A. Yes.

Chenoweth v. Pan American, 314 F. 2d 63, 65, 66, Cross Examination of Mr. C. D. Kerr, Pan American District Superintendent January 1962, Record in that case is not before the Court (224, 225, 226):

Q. So that your district level recommended to your upper level the Division, say, to test the Oil Creek? A. Yes, we worked it out. That's right, Barth. We have a group of engineers like Mr. Warren and Mr. Tiemier, staff engineers.

* * * * *

Q. But management upstairs, so to speak, did not concur in your recommendation; * * * A. No, * * * We agreed * * * to meet our direct offset. We had done it on the Willens A; and we thought that there we had possibilities for another well on the Willens B, so we did the same thing on the Willens B.

Q. So what you did then in effect was to modify your procedure and modify the recommendations in which you all concurred, by accepting the route of meeting the offset obligation? A. Yes, that's right.

changed their procedure and elected to withhold the Willens B1 Oil Creek for salvage.(5)

While discriminating against the Willens B1, at the same time Pan American, as an offset protection well to its Carpenter-Ferguson Unit A Tract 2, put its dual completed Carpenter-Ferguson Unit B Tract 1 on Oil Creek production

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(5) *Continued*

Q. Would it be a fair question to ask you as to whether or not at that time you did then abandon any idea of ever testing the Oil Creek after that and producing it on that tract? A. No, we didn't.

* * * * * *

Q. * * * When you drilled the B-1 well, you later abandoned it and drilled the B-2 well? A. Uh huh.

Q. Then you decided after you had penetrated the McLish in the B-2 not to go to the Oil Creek? A. That's correct, Barth.

Q. Well, at that time was there any discussion and did the company at that time decide that it would abandon any further operations on this tract with respect to the Oil Creek? A. No, * * *

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(5) Letter October 10, 1956, Amerada answer to Hart, no privity with the Petitioners, set out in Mr. Justice Bohanon's opinion Finding 7, attached to Pan American Supplemental Answer Brief; treated in Appellants' Response Brief p. 8, both briefs included in record to this Court; letter in part:

"* * * It is possible that a small amount of salvage oil might be recovered through the present bore hole at some future date, in view of this we are not agreeable to granting an outright release of this horizon * * *"

The single Oil Creek zone offer to Hart also contained in the letter, was meaningless; no less than the then standard or practice should have been offered, to-wit: a dual zone offer of the Oil Creek with either the Bromide or the McLish.

from 6 feet of well sand thickness (net pay), all that the well had; and with only 39,765 bbls originally in place, not enough to pay out a well cost of 100,000 bbls, produced under the rule of capture and before unitization, 136,216 bbls. (Ap. 22a). Already a recipient of a bonus of 96,451 bbls of overproduction, it was assigned in addition the producing well factor 6.25% of the total unit oil yet to be produced; and with the acre feet of oil originally in place long since exhausted, it was assigned additional acre feet % factor under the Plan; in both instances, above allowed bonus oil overproduction.

The Willens B1 well bore is lined with pipe 7 inches in diameter (casing); two strings of smaller diameter pipe (tubing) were run inside the casing. A 1½ inch string of tubing was used to produce the Bromide; within this 1¼ inch string of pipe mechanical difficulty developed. A 2 inch string of tubing was used to produce the McLish; there is no difficulty with the McLish tubing; the McLish production was shut in after it was unnecessarily duplicated in the Willens B2. There is no trouble with the 7 inch casing; it is not collapsed.[3]

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[3] *Chenoweth* v. *Pan American*, 314 F. 2d 63,
Direct Examination of Mr. C. D. Kerr, Pan American District Superintendent; record (217) in that case is not before the Court:

Q. Now what was the net result of that trouble on the productivity of the (Willens B1) well? A. Well, it was impossible to produce the Bromide. We were able to bring our production back all right from the McLish zone, but we had a swab stuck in the inch and a half tubing with about 4000 feet of wire line on top of it, and we just didn't have a chance to get any (Bromide) production.

Failure to test or produce the Willens B Tract 6, Oil Creek discriminated against and divested the tract of 6.25% participation in the total unit production to which it is entitled; this 6.25% arbitrarily was divided by Pan American among its 7 other wells and tracts that it had chosen to test. Pan American assigned to the Willens B Tract 6, erroneous participation of 0.554290% in the Unit; correct Unit participation for the well and additional acre feet is 7.328811% (Ap. 22a).

[4] Also, the Unit formula for participation assigns 50% of the total unit production to acre feet of net pay sand; each tract participates on a proportionate basis to its acre feet. Unless the same method is used to compute all tracts, there is discrimination against the excluded tract. The Willens A1 Tract 7, well and tract, with no vertical correction made and assigned erroneous well sand thickness, admittedly was excluded.

The practice was to make a necessary directional survey (slant hole survey) and based thereon to make two essential corrections, 1) the deviation or drift of the well away from the surface location; this bears on the area extent of the pay sand and fixes the subsurface position of the well in the Oil Creek, with respect to lease lines; 2) the vertical correction, which must be applied to obtain correct well sand thickness; this elevates the well and adds to the well sand thickness above water, in the well and in the tract. All three steps are essential.

Pan American admits that it made the three operations for all of its necessary wells, except its necessary Willens A1 Tract 7. For the Willens A1 Tract 7, no directional survey was made; drift direction and distance was guessed; and no vertical correction was made. Pan American admits that without the vertical correction it could not and did not compute correctly the amount of effective pay sand under the Willens A Tract 7; and, arbitrarily and without basis, assigned to the

Willens A Tract 7, an unfair percentage in the acre feet allowance for the Unit participation.[6]

The vertical correction made by Pan American for all of its wells and tracts but denied to the Willens A Tract 7, added 12 to 118 feet of additional well sand thickness to the wells and tracts there involved. Instead of the vertical correction, erroneous well sand thickness was assigned to the Willens A1 Tract 7. A substantial error as shown by the net 6 feet of the Carpenter-Ferguson Unit B which produced 136,216 bbls prior to unitization.

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[6] Mr. Paul Tiemeier, Pan American staff engineer, Cross Examination:

(R. 199-200) Q. Now then, in your Willens A1 there was no directional survey made, was there? A. No, sir.

Q. All these other tracts you have compensated from the angle or the deviation from vertical in computing your formula, haven't you? A. Yes, sir.

* * * * *

(R. 200) Q. Now Mr. Tiemeier, did you make any correction of any deviation from vertical in computing your formula on the Willens A1 tract? A. Our formula is based on our isopach map.

Q. * * * But did you take into account any correction for deviation from vertical on that tract (Willens A)? A. No, sir.

* * * * *

(R. 202) Q. Did you make any correction for a vertical deviation? A. No.

Q. Now, you'd have to know that (vertical correction) in order to be able to compute the amount of effective pay sand under this tract, would you not? A. Yes.

Error in the well sand thickness assigned to a tract included in a unit for secondary recovery, takes property without due process and violates the Federal Constitution, 14th Amendment.[6] Pan American assigned to the Willens A Tract 7, erroneous participation of 11.531288%; correct participation is 12.936157%, an error of 1.4%. The error on the Willens B Tract 6, is 6.8%. The two errors translate into $53,083.00 wrongfully and without due process, taken from the Petitioners (Ap. 22a).

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[6] *Philtex Oil Co. et al* v. *Corporation Commission of the State of Oklahoma et al*, No. 38642, In The Supreme Court of Oklahoma; case unreported; Opinion Oct. 4, 1960; appended to Appellants' Petition (White Brief 22a) submitted to the Oklahoma Supreme Court (Included in record).

The proponents of the Plan assigned a well sand thickness of 100 feet where the electric log of the well showed that 87½ feet was the most that could be assigned. The Court states: "* * * the D sand thickness attributed to some tracts as a factor in their shares of participation in the unit's production, is unjustified, arbitrary and unsupported by the evidence," and (at p. 2a) Syllabus 3 in part, this "* * * take(s) property from some owners without due process and violate(s) the United States Constitution's Fourteenth Amendment, and the Oklahoma Constitution's Art. II, Secs. 7, 23 and 24 * * * in so far as certain tracts were given participation in such future secondary recovery on the basis of certain well's sand thicknesses, which all of the direct and specific evidence tended to show was erroneous."

REASONS FOR GRANTING WRIT.

[1] The question is whether the April 15, 1960 Unit Order could be made at all. Until the jurisdictional prerequisites are met, there is no jurisdiction in the Commission to make a valid order, *Wilcox* v. *Walker*, (Okl. 1934) 35 P. 2d 893, 894.

Jurisdiction here hinges on whether the November 13, 1959 notice exists to serve as the notice for the different purpose November 16 or 17, Second Application. Based upon *Wilcox* v. *Walker*, 32 P. 2d 1044, 1049-1052 (Okl), when the November 13, 1959 First Application was withdrawn and abandoned, the November 13 notice became functus officio and ceased to exist. The lower Court distinguishes the *Wilcox* case by noting that in it, there was no notice (Ap. 6a); however, the *Wilcox* case specifically holds that if there had been a notice, it would have become functus officio, *Wilcox Oil & Gas Co.*, v. *Walker, et al.* 32 P. 2d 1044, 1051:

> "• • • The order of proration died and became functus officio, and had proper notice been given, admittedly not given by law, the notice on which said order was based would likewise have served its necessary function and purpose. Before another valid order of proration could be made, a new hearing was necessary, based upon a new notice. • • •"

Jurisdiction in the Commission is based upon mandatory prerequisite publication of notice by the Commission. In no other way can notice be given (Rule 4, Ap. 19a). *Wilcox* v. *Walker*, 32 P. 2d 1044, 1048, 1051, holds that taking part in the proceedings does not supply the notice and does not cure the fatal defect in the Commission's jurisdiction; that absent jurisdiction and the proceedings are deprived of their effectiveness for any purpose; and constitute a denial of due process under the Federal Constitution, 14th Amendment.

The unauthorized withdrawal of the First Application and the substitution of the different purpose Second Application cannot be considered as a correction or amendment since it did not comply with the Commission's Rules 1 and 6 which provide that this can be done only on order of the Commission (Ap. 19a). To do otherwise, is to now make a special rule to revert back to cure an existing fatal defect in the Commission's jurisdiction; this is prohibited under *Wilcox Oil and Gas* v. *State*, 19 P. (2d) 347, 350, which holds that the Commission's rules must be made by general orders applicable to all cases. It may not make special rules for special cases.

If the November 13 First Application had been amended, it would so appear in the docket, which it does not; and it would be physically present in the Commission files and impeach the Second Application. *Henderson* v. *Shell Oil Co.*, 173 F. 2d 840. The absence of the present necessary conservation need forced the physical withdrawal and abandonment of the First Application. The Second Application accomplishes illegal monopoly control of the primary oil and the productive acreage for private purpose and use until such future time as the necessary conservation need should come into existence, if ever (Ap. 20a). If the Second Application had been filed on November 13, 1959, it would bear the Commission's filing stamp, a simple mechanical stamping act if done on that day. However, it is admitted and not denied that the withdrawal and substitution of the key pages took place on November 16 or 17, 1959 and that there is no notice of the hearing to be had thereon.(8)

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(8) The question of notice and jurisdiction is discussed in Supplemental Reply Brief, Petition for Rehearing, Response to Applicant's Supplemental Brief, excerpt from p. 4:

Q. * * * Is this statement correct Mr. Peterson? Were you present at the time the first page of the November 13

The hearing was on the Second Application; before a valid Order could be made, a new hearing was necessary based upon a new notice.

Similar circumstances in *Wilcox v. Walker*, 32 P. (2d) 1044, constitute denial of due process under the Federal Constitution 14th Amendment and were there protected. It is obligatory on the lower Court to apply the law equally to all in like circumstances and thus to also protect the Petitioners' Federal rights. *Hill v. Texas*, 316 U.S. 400, 406; 86 L. ed. 1559, 1563; 62 S. Ct. 1159; *Maxwell v. Bugbee*, 250 U.S. 525, 541; 63 L. ed. 1124, 1132; 40 S. Ct. 2; *Southern By R. Co. v. Greene*, 216 U.S. 400, 412; 54 L. ed. 538, 539; 30 S. Ct. 287.

[2] The authority of the Commission and the purpose of the Act, are confined to the conservation of oil and gas, a strategic natural resource. The aim of unitization is present efficient use with a minimum of loss by underground waste, oil left in the reservoir that could be produced. The general public welfare and the national security are involved. 52 Okl. St. Ann Secs. 287.1, 2, 3, Ap. 17a; *Spiers v. Magnolia Petroleum Co.*, 206 Okl. 510, 244 P. 2d 852, 856, 857.

The April 15, 1960 Unit order creates a conservation authority that is not needed for 7 years, 1967 or later, if at all. This constitutes a future purpose for which the Act does not

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(1) *Continued*

Application was withdrawn and the first page of the November 17 Application was substituted? A. Yes, sir. The only question I have is to whether it was November 16 or 17, sir.

Q. You saw it happen? A. Yes, sir.

provide and its creation is an illegal extension of the authority delegated to the Commission.[6]

The controlling feature of the Unit Plan is the unilateral power given to Pan American to gear the unit operation to its own private profit structure, to-wit (R. 256, Exh. A p. 26):

> "Article 27.2 *Termination by Operating Committee.* This Plan of Unitization may be terminated by the Operating Committee whenever such Committee determines that unit operations are no longer profitable, feasible or in the interest of conservation."

Under this unitization practice, companies may acquire large amounts of productive acreage and procure a unit authority when the conservation need is not present; and then, by drilling one or more wells and elect to produce only one, perpetuate their control of the unitized area; thereby barring competitive development and production by others.

Conservation does not envisage control of the domestic acreage and production for non-use. The affect upon the economy can be extensive and serious. The same operator holding domestic acreage and controlling production therefrom, likewise may be holding and controlling foreign acreage and production; and weighs side by side which, and how much from each, it will permit to compete in the domestic market; all based upon the operator's standard or desirability as to which will yield more profit. Pan American operates on a world-wide and interstate scope (self publicised). If more profit can be had in another state, emphasis may be in that direction; if still more profit can be had by relying on foreign import oil,

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[6] The Briefs below are included in the record to this Court. The Petitioners' Federal rights are especially set up and claimed in Appellants' Petition (White Brief pp. 2-3); also see Initial Brief pp. 4, 75, 76, 77; Reply Brief pp. 2-7, 38; Supplemental Reply Brief pp. 9-14.

the emphasis again may shift. In effect, the domestic production price structure then, is linked to the price structure of a foreign economy. Under these conditions, the oil in the domestic unitized reservoir may never be profitable enough to produce.

Assuming a comparable course of action by those domestic companies that are able, and it is possible under this unitization practice, the curtailment of the domestic production and its removal from the domestic market becomes ever enlarged while the reliance on foreign import oil becomes increasingly pronounced; all of which may seriously affect the domestic producing structure. Then, in time of national need or emergency and when the national security is involved; and when full scale use of the domestic production industry is vitally essential, it may not readily be geared for full scale use.

There is no mandatory requirement on Pan American to initiate unitization; if it does, the justifying public purpose, the "desirable and necessary" conservation need must exist. (Legislative Finding 287.1, Ap. 17a). When Pan American causes the police power of the State to be invoked for the general welfare and the common good, it has taken upon itself by choice, a duty to serve that cause. This duty does not exist at its own caprice or to serve only the more profit desirability of Pan American.

The Petitioners here, wrongfully are compelled to yield their private property for the benefit of another private person without a justifying public purpose. *Thompson* v. *Consolidated Gas Utilities*, 300 U.S. 55, 80; 81 L. ed. 510; 57 S. Ct. 364. These private rights may not be annihilated. *Grison Oil Corp.* v. *Corporation Commission*, 186 Okl. 548; 99 P. 2d 137; and the power to regulate is not a power to destroy and limitation is not the equivalent of confiscation. Railroad Commission cases 116 U.S. 307, 331; 29 L. ed. 636; 6 S. Ct. 334.

[3] In *Chenoweth v. Pan American Petroleum Corp.*, (10th C. 1963) 314 F. 2d 63, 65, the Court found:

> "In cases questioning the development done by an operator under the prudent operator rule, the actions of the operator are examined item by item. This is essentially a comparison of his acts with standards or practices then prevailing in the area all in the context of economics."

We think this means that all wells and tracts in the same class are entitled to equal treatment. In effect, it holds that the Willens B1 or B2 wells should have been tested or put on production in like manner as were the other Oil Creek wells; and it is incumbent upon the Jewey Court to treat this as having been done and thereby assign the 6.25% well factor to the Willens B Tract 6. *Buckington v. Wilmington Parking Authority*, 365 U.S. 715, 725; 6 L. ed. 45, 52; 81 S. Ct. 856.

The Willens B Tract 6 is the only tract on which an Oil Creek well was drilled that can be commercially produced, but that was not tested or produced. It should not have been excluded from but should have been accorded, the same then practice of the offset protection and development in the Oil Creek as had been accorded to the adjoining offset Willens A Tract 7. The discriminatory and different practice, that of withholding the Oil Creek for salvage, was reserved exclusively for the Willens B Tract 6.

The arbitrary assignment of erroneous well sand thickness of zero feet to the Willens B1 well and using this as the reason for not testing or developing the Oil Creek while knowing that the well had 28 feet of well sand thickness above water under their own figures, and the Willens B2 had 70 ft. projected, takes the Petitioners' property without due process; thereby, the Willens B Tract 6 was denied 6.25% participation in the total unit production. *Phillips Oil Co. v. Corporation Commission*, supra 15n.

Due process and equal protection of the laws are not mere formalities; they are substantial Federal questions that have been asserted as having been violated and denied to the Petitioners. (See Appellants' Petition (White Brief) pp. 3-7, in lower Court) The lower Court may not disregard these inalienable rights. Oklahoma Constitution, Art. IX, Sec. 20, (Ap. 16a); *Philter Oil Co.* v. *Corporation Commission*, ib; *Special Indemnity Fund* v. *Hunt*, 190 P. 2d 795 (Okl); *Wilcox* v. *Walker*, 32 P. 2d 1044, 1048; *Carter Oil* v. *State*, 240 P. 2d 787. And it is within the province of the Federal Court to inquire therein. *Norris* v. *Alabama*, 294 U.S. 587, 589, 590; 79 L. ed. 1074; 55 S. Ct. 579; Mr. Chief Justice Hughes speaking for the Court, stated:

> "That the question is one of fact does not relieve us of the duty to determine whether in truth a federal right has been denied. When a federal right has been especially set up and claimed in a state court, it is our province to inquire not merely whether it was denied in express terms but also whether it was denied in substance and effect. If this requires examination of the evidence, that examination must be made. Otherwise, review by this Court would fail of its purpose in safeguarding constitutional rights. Thus, whenever a conclusion of law of a State Court as to a federal right and findings of fact are so intermingled that the latter control the former, it is incumbent upon us to analyze the facts in order that the appropriate enforcement of the federal right may be assured."

Rights that exist to 7 wells and tracts in a class, exist to the eighth well and tract in the same class. The Pan American position is that of a single fiduciary controlling identical trust properties common to the same trust; under the then practices, none should be favored, none should be discriminated against. The granting of treatment and protection to the Pan American other tracts and wells as a matter of right and arbitrarily denying it to the Willens B wells and Tract 6, which

are identically situated, takes the Petitioners' property without due process and denies equal protection of the laws. *Truax* v. *Corrigan*, 257 U.S. 312, 332, 333; 66 L. ed. 254; 42 S. Ct. 124; *Phillips Petroleum Co.* v. *Peterson*, 218 F. 2d 926, 933, 934 (10th C. 1954); *Bolling* v. *Sharpe*, 347 U.S. 497, 499; 98 L. ed. 884, 886; 74 S. Ct. 693; *Frost* v. *Corporation Commission of Oklahoma*, 278 U.S. 515, 522; 73 L. ed. 483, 488; 49 S. Ct. 235; *Louisville Gas & Electric Co.* v. *Coleman*, 277 U.S. 32, 37; 72 L. ed. 770, 774; 48 S. Ct. 423; *Maricell* v. *Bugbee*, 250 U.S. 525, 541; 63 L. ed. 1124, 1132; 40 S. Ct. 2; *Southern R. R. Co.* v. *Greene*, 216 U.S. 400, 412; 54 L. ed. 536, 539; 30 S. Ct. 287.

[4] The Unit Act requires that the Petitioners' correlative rights be protected, not discriminated against (Ap. 17a). To protect, it is essential that the method to obtain the Willens A1 well sand thickness and the acre feet of pay under Tract 7, item by item, be the same as that used by Pan American on its other wells and tracts. *Chenoweth* v. *Pan American*, 314 F. 2d 63, 65. The necessary directional (slant hole) well survey and vertical correction based thereon, admittedly were not made for the Willens A1 well.

No vertical correction was made for the Willens A1 well; thereby it was denied 12 to 118 feet of additional well sand thickness. Pan American admits that it was not able to compute the Willens A1 well sand thickness and the acre feet of pay in the Willens A Tract 7, (Note 6 supra 14). The result is arbitrary assignment of erroneous well sand thickness and acre feet of pay for the Willens A1 well and Tract 7. This affects directly and makes erroneous the unit formula participation per cent assigned to each of the eleven tracts in the Unit.

The lower Court has found that erroneous well sand thickness assigned to a well in a Unit for secondary recovery, takes property without due process and violates the Federal

Constitution, 14th Amendment guaranteed. *Phillips Oil Co. v. Corporation Commission of the State of Oklahoma*, Supra 15n. Syllabus in part:

"3. In view of the particular characteristics of the Velma-Sims oil and gas reservoir, and, of the changes (which the evidence tended to show) had occurred in it since it began producing, neither the Plan submitted to unitize it for future secondary recovery, nor its formula for each tract's participation in said recovery, violated Title 52, O. S. 1951, secs. 287.4 and .5, nor did they, and/or the Corporation Commission's order approving them, take property from some owners without due process and violate the United States Constitution's Fourteenth Amendment, and the Oklahoma Constitution's Art. II, secs. 7, 23 and 24, *except in so far as certain tracts were given participation in such future secondary recovery on the basis of certain well's and thicknesses, which all of the direct and specific evidence tended to show, was erroneous.*" (Emphasis added)

The protection of the Petitioners' Federal rights is not discretionary with the lower Court. Where conditions exist, as in the *Phillips* case, that are found by the State Court to violate the 14th Amendment, the paramount Federal rights must be and were protected. When similar conditions exist in another case before the same State Court, equal justice requires that protection of the Federal rights may not be withheld; they likewise must be protected and any acts that infringe these rights must be held void. *Hill* v. *Texas*, 316 U.S. 400, 406; 86 L. ed. 1559, 1563; 62 S. Ct. 1159. *Southern R.R. Co.* v. *Greene*, 216 U.S. 400, 412; 54 L. ed. 538, 539; 30 S. Ct. 287.

The granting of relief and equal justice on an elective basis as a matter of right to some, and arbitrarily not to the Petitioners who are identically situated, denies equal justice, and is within the prohibition of the Federal Constitution;

Barbier v. Connolly, 113 U.S. 27; 28 L. ed. 923, 925; 5 S. Ct. 357; *Bolling v. Sharpe*, (1953) 347 U.S. 497, 499; 98 L. ed. 884, 886; 74 S. Ct. 693.

CONCLUSION

For the reasons stated, the Petitioners respectfully pray that the Writ of Certiorari be granted.

Respectfully submitted,

BARTH P. WALKER,
HERBERT A. HOFFMAN,
Attorneys for Petitioners.

APPENDIX A

OPINION OF THE SUPREME COURT OF THE STATE OF OKLAHOMA

(No. 39187)

SYLLABUS.

1. Under Art. IX, Sec. 20, Constitution of Oklahoma, as amended, on appeal from the Corporation Commission this court is required to review the evidence, and must sustain the order appealed from if it is supported by substantial evidence.

2. The determination whether there is "substantial evidence" to support an order made by Corporation Commission does not require that the evidence be weighed, but only that the evidence tending to support the order be considered to determine whether it implies a quality of proof which induces the conviction that the order was proper or furnishes a substantial basis of facts from which the issue tendered could be reasonably resolved.

Appeal From Corporation Commission Of The State Of Oklahoma.

Application by Pan American Petroleum Corporation for the creation of the Eola Northwest Block Oil Creek Sand Unit in Garvin County, Oklahoma. From an order of the Corporation Commission granting the application and plan, Margaret Chenoweth and others appeal.

Affirmed.

DAVISON, J.—

This is an appeal by Margaret Chenoweth and other royalty owners from an order of the Corporation Commission dated April 15, 1960, creating the Eola Northwest

Block Oil Creek Sand Unit in Garvin County, Oklahoma, in accordance with the application of Pan American Petroleum Corporation, lessee of most of the area, for unitization of a portion of the Oil Creek Sand as a common source of supply of oil and gas. The proceeding was pursuant to 52 O.S. 1961, Sec. 287.1, et seq.

A prior order of the Commission had divided the area into well spacing and drilling units of 40 acres each. The unitized area extends east and west and consists of 2 parallel rows of 5 tracts each and 1 tract offset to the west from the south row of tracts, or a total of 11 tracts of 40 acres each. It was established that the Oil Creek Sand in the unitized area straddles the east and west line between the tracts with a gradual slant to the south and is defined on the north by a water-oil contact and on the south by a fault. Appellants' royalty interests, except for a minor interest, are in the 40 acre offset tract at the west end of the lower row of tracts (designated Tract 6 or Willens B) and the adjoining 40 acre tract to the east (designated Tract 7 or Willens A).

Pan American's application for unitization presented a formula for participation in the production based on two factors, whereby 50% of the oil production was assigned to those tracts having producing wells from the Oil Creek Sand, and the remaining 50% was assigned to all tracts in proportion to the acre feet of production sand under each tract. The application also presented a schedule of the percentage of each tract's participation in the production because of the presence of a well and a calculation of the acre feet of productive sand. The Commission's order approved the formula and participation schedule.

(Opinion of the Supreme Court of Oklahoma)

Appellants complain that under the circumstances and proof the tract participation given the tracts in which they own royalty is unfair, in that it fails to give well participation to Tract 6 (Willens B), and that the proof, in their opinion, shows the acre feet of sand under their tracts to be greater than that used in fixing such tracts' participation.

There are 7 wells on as many tracts producing from the Oil Creek Sand and sharing in the well participation under the formula. One of these wells is located on Tract 7 (Willens A) and appellants are consequently entitled to share in that well's share of the total production. The remaining four tracts have no wells and one of these is Tract 6 (Willens B). A well had been drilled on Tract 6 into the Oil Creek Sand and the lessee decided to use this well to produce from the Bromide and McLish sands in higher formations. This well was later lost due to mechanical difficulty during operations to increase production and the lessee drilled another well on Tract 6 to produce from the Bromide and McLish sands. These sands have been unitized in this area under the same formula as presented in the instant appeal and appellants have well participation in production from such sands because of the second well on Tract 6 and another well on Tract 7. It is not controverted that the formation in this area renders development difficult and that to drill another well on Tract 6 to the Oil Creek Sand would cost in excess of $300,000. From our examination of the record it appears that appellants' contention, and their further charge that Pan American's plan of unitization and formula was a fraudulent scheme to avoid its failure to produce the first well on Tract 6 from

the Oil Creek Sand or to drill another well to such sand is without foundation.

Appellants' claim of more acre feet of sand is based upon technical expert evidence which they say reflects the sand to be thicker and the fault further south in the area of their tracts. Both sides used expert witnesses who testified as to their interpretation of technical data in fixing the location of the water level beneath the productive sand and the location of the fault. The Commission chose to accept the evidence presented by the applicant Pan American. The evidence informed the Commission relative to the characteristics of the tracts of appellants to be used in determining such tracts' fair, equitable and reasonable shares of the production as provided in 52 O.S. 1961, Sec. 287.4, par. (b). From our view of the record we find that there is substantial evidence to support the conclusions of the Commission.

Under the provisions of Oklahoma Constitution, Art. IX, Sec. 20, in appeals of this nature our review does not extend further than to determine whether the Commission has regularly pursued its authority, and whether the findings and conclusions are sustained by the law and substantial evidence.

In *Producers Development Company* v. *Magna Oil Corporation*, Okl., 317 P. 2d 702, we stated:

> "The determination whether there is 'substantial evidence' to support an order made by Corporation Commission does not require that the evidence be weighed, but only that the evidence tending to support the order be considered to determine whether it implies a quantity of proof which induces a conviction that the order was proper or furnishes a substantial

basis of facts from which the issue tendered could be reasonably resolved."

In *Superior Oil Co.* v. *Oklahoma Corporation Commission*, 206 Okl. 213, 242 P. 2d 454, we held:

> "We concede that the Corporation Commission has a wide discretion in the performance of its statutory duty. We cannot substitute our judgment on disputed questions of fact unless the findings of the commission are not as commanded by the Constitution, supported by the law, and substantial evidence."

Appellants further contend that the Commission was without jurisdiction to hear the application for unitization. This contention is based upon the following circumstances. The application was filed November 13, 1959, and stated that the area was "substantially depleted of oil and gas producible by primary means." It was discovered this was an erroneous statement and on the same day or several days later the page containing such statement was replaced by another page stating instead "in order to delay the depletion of the reservoir energy it is desirable to initiate some form of re-pressuring." The Commission's notice of hearing was published in Oklahoma County on November 17 and in Garvin County on November 19, 1959. The notice did not contain either of said statements. It is not claimed that the content of the notice was insufficient. Disregarding the above quoted statements the application does contain all of the facts required by 52 O.S. 1961, Sec. 287.2, to be alleged in the application. It is not contended by appellants that they were misled or prejudiced in any way and it is obvious that they duly appeared and contested the application. In fact it appears this is a matter that came to their attention after the hearing and order of the Commission.

(Opinion of the Supreme Court of Oklahoma)

Appellants' cited case of *H. F. Wilcox Oil & Gas Co.* v. *Walker*, 168 Okl. 355, 32 P. 2d 1044, is not in point because in that case the objection was that no notice of hearing was given.

It is our conclusion that appellants' contention is without merit.

The order of the Commission is affirmed.

Halley, V.C.J., and Welch, Johnson and Berry, JJ., concur.

Blackbird, C.J., and Williams, J., dissent.

APPENDIX B

Before The Corporation Commission Of The State Of Oklahoma

In The Matter Of The Application Of Pan American Petroleum Corporation For The Creation Of The Eola Northwest Block Oil Creek Sand Unit, Having For Its Purpose The Unitized Management, Operation And Further Development Of A Portion Of The Oil Creek Sand Common Source Of Supply In Garvin County, Oklahoma.	Cause CD No 12884 Order No 42184

REPORT OF THE COMMISSION.

Pursuant to regular and statutory notice this cause came on for hearing before the Corporation Commission of the State of Oklahoma on the 11th day of December, 1959, in the Commission's Court Room, Capitol Office Building, Oklahoma City, Oklahoma, the Honorable Ray C. Jones, Chairman, Wilburn Cartwright, Vice Chairman, and Harold Freeman, Commissioner, sitting, at the request of Paul Brown, attorney for appearing protestants, the hearing was then and from time to time thereafter continued, and pursuant to regular continuance and setting was heard on the 8th day of March, 1960.

T. Murray Robinson and Norton Standeven, attorneys, appeared for the petitioner, Pan American Petroleum Corporation, Richard M. Fowler appeared for the Superior Oil Company, and Paul Brown appeared for Herbert Hoffman et al, protestants, and Ferill H. Rogers, Conservation Attorney, appeared for the Commission.

(Report of the Commission)

After hearing the evidence of the petitioner and the protestants the Commission took the cause under advisement and now on this date the Commission being in executive session and having considered the evidence, the pleadings and the statements of and the positions of the parties, finds that the application should be granted and in connection therewith makes the following findings.

FINDINGS

1. That this is an application of Pan American Petroleum Corporation for the unitization of the Oil Creek said common source of supply of oil and gas underlying lands in Garvin County, Oklahoma, pursuant to the provisions of 52 O.S.A., 287.1 to 287.15.

2. That notice of the filing of the petition herein and of the time, place and purpose of the hearing was regularly given in all respects as required by law, and the Commission has jurisdiction of the subject matter and of the persons interested therein, and has jurisdiction to enter the order hereinafter set forth; that protests have been filed to the granting of this application, and the Commission finds generally that all of the material allegations of the petition filed herein are true and correct and are supported by evidence.

3. That the petitioner herein is presently, and was at the time the petition was filed, owner of valid oil and gas leases, and was lessee of record, of a portion of the lands comprising the area sought to be unitized herein; that the unit area which petitioner desires to unitize under the provisions of the law referred to consists of the following tracts in Garvin County, State of Oklahoma, to-wit:

South half of the South Half of Section 1,

Southeast Quarter of the Southeast Quarter of Section 2,

North Half of the Northeast Quarter of Section 11,

North Half of the North Half of Section 12,

All in Township 1 North, Range 3 West in the Eola Field in Garvin County, Oklahoma,

which lands are delineated upon a plat which is attached to the Plan of Unitization as Exhibit "B" and which said lands are hereinafter referred to as the "unit area". The plat of the area referred to above is adopted and made a part hereof by reference.

4. The Commission finds that the unit area hereinabove described is underlain by and constitutes a substantial portion of the common source of supply of oil and gas which has been heretofore designated by this Commission as the Oil Creek sand common source of supply of oil and gas underlying lands in Garvin County, Oklahoma; that the common source of supply included within the unit area has been defined and determined to be productive of oil and gas by actual drilling operations.

5. The Commission further finds that the unitized management, operation and further development of said common source of supply, or the portion thereof involved, is reasonably necessary in order to effectively carry on water flooding operations or other forms of joint effort calculated to substantially increase the ultimate recovery of oil and gas from the common source of supply; that one or more of said unitized methods of operation as applied to such common source of supply or portion thereof are feasible, will prevent waste, and will, with reasonable probability,

result in the increased recovery of substantially more oil and gas from said common source of supply that would otherwise be recovered; that the estimated additional cost of conducting such operations will not exceed the value of the additional oil and gas so recovered.

6. The Commission further finds that this proposed unit and the adoption of one or more of such unitized methods of operations is for the common good and will result in the general advantage of the owners of the oil and gas rights, within the common source of supply or portion thereof directly affected.

7. The Commission further finds that the size and shape of the unit area is such as may be reasonably required for the successful and efficient conduct of the unitized method or methods of operation for which the unit is to be created.

8. The protestants offered evidence that the proponents of the Plan of Unitization has incorrectly computed the amount of the effective Oil Creek pay section beneath the several tracts, stating that, in fact, the oil-water contact under the west portion of the Unit was at minus 10,544 feet, rather than the minus 10,520 feet testified to by applicant's witnesses, but the protestants' witnesses placed the oil-water contact much higher in the East portion of the reservoir, and the Commission finds that there is no reason to believe that such difference existed and considering all the evidence the Commission believes that the relative quantities of effective pay sand under the respective tracts have been fairly computed by the proponents of the Plan of Unitization in arriving at the percentages of distribution set forth in the Plan of Unitization.

(Report of the Commission)

9. The Commission further finds that the protestants' principal objection to the offered Plan of Unitization was that the percentages of participation in the Plan for the several tracts in the Unit were arrived at by dividing one-half of the unit participation among the tracts that contained a productive oil Creek Well thereon, and that such Plan was unfair as to Tract No. 6 as it was not credited with a well thereon although it contained a substantial amount of Oil Creek sand and at one time has a well thereon into the Oil Creek sand. The Proponents' position was that it would take a new well to make such tract in fact productive in the Oil Creek Sand, and that the amount of Oil Creek sand underlying such tract was insufficient to justify the drilling of such new well thereon, and therefore Tract No. 6 should be treated as all other tracts which did not contain a productive Oil Creek well, and Tract No. 6 is therefore fairly treated in the Plan of Unitization. In respect to these contentions the Commission finds that it is fair and reasonable to credit a portion of the total recoveries from the reservoir to those tracts that would participate in primary recoveries and only those tracts that have wells would participate in such recoveries, and the percentages of participation arrived at by the unit formula represent a fair and equitable distribution of the unit substances.

10. The Commission further finds that the Plan of Unitization which is attached to the petition filed herein and presented to the Commission for approval, and which is made a part hereof by this reference, is suited to the needs and requirements of this particular unit designated in said Plan as the Eola Northwest Block Oil Creek Sand Unit, Garvin County, Oklahoma; that the terms and provi-

sions of said Plan of Unitization are adequate and are proper to effectuate and accomplish the purposes of the statute hereinabove referred to; that said Plan contains fair, reasonable and equitable provisions for: (a) the efficient unitized management or control of the farther development and operation of the unit area for the recovery of oil and gas from the portion of the common source of supply affected; (b) the division of interest or formula for the apportionment and allocation of the unit production among and to the several separately owned tracts within the unit area such as will reasonably permit persons otherwise entitled to share in or benefit by the production from such separately owned tracts to produce or receive, in lieu thereof, their fair, equitable and reasonable share of the unit production or other benefits thereof; (c) the manner in which the unit and the further development and operation of the unit area shall or may be financed and the basic terms and conditions on which the cost and expense thereof shall be apportioned and assessed against the tracts and interests made chargeable therewith, including a detailed accounting procedure governing all charges and credits incident to such operations; (d) the procedure and basis upon which wells, equipment and other property of the several lessees within the unit area are to be taken over and used for unit oprations, including the method of arriving at the compensation therefor or of otherwise proportionately equalizing or adjusting the investment of the several lessees in the project as of the effective date of the unit area; (e) the creation of an operating committee and appropriate subcommittees for the general overall management and control of the unit and the conduct of its business and affairs and the operations carried on by it; (f) the time when the Plan of Uniti-

zation shall become and be effective; (g) the time when and the conditions under which and the method by which the unit shall or may be dissolved and its affairs wound up.

11. It is the further finding of the Commission that the petition herein and the Plan of Unitization presented conform to and comply with the requirements of 52 O.S.A., 287.1, *et sequa*; that said Plan has been accepted and signed by all of the lessees of record in the unit area; and that said Plan of Unitization has been, in writing, ratified, approved and adopted by the owners of record of more than sixty-three per cent by area of the normal one-eighth royalty interests in and to the unit area, exclusive of royalty interests owned by lessees or by subsidiaries of any lessees, and that pursuant to Section 5 of the Statute referred to, the order of the Commission entered in this cause may become effective immediately.

ORDER

It Is Therefore Ordered by the Corporation Commission of the State of Oklahoma as follows:

1. That the petition filed herein be, and the same is hereby granted.

2. That the Eola Northwest Block Oil Creek Sand Unit is hereby created in accordance with and upon and subject to the terms, provisions and conditions of the Plan of Unitization, for the further development of the Oil Creek sand underlying the area hereinafter described, such Oil Creek sand reservoir being defined as the stratigraphic interval between the base of the McLish formation and the top of the joins formation which was encountered between the depths of 10,920 and 11,599 below the Kelly bushing

in the Carpenter-Ferguson Unit "A" No. 1 well, located in the Southwest Qaurter of the Southeast Quarter of Section 1, Township 1 North, Range 3 West, Garvin County, Oklahoma; the area of said Unit being:

South Half of the South Half of Section 1,

Southeast Quarter of the Southeast Quarter of Section 2,

North Half of the Northeast Quarter of Section 11,

North Half of the North Half of Section 12,

all in Township 1 North, Range 3 West in the Eola Field in Garvin County, Oklahoma.

3. That the Plan of Unitization which is attached to the petition herein is made a part of this Order by reference, and is hereby approved, and such Plan of Unitization shall constitute the Plan of Unitization in and for said Eola Northwest Block Oil Creek Sand Unit and the unit area of said unit, all to the same extent and with the same force and effect as if copied herein in its entirety.

4. That the unit area of the unit so created shall include all of the lands which are hereinabove described, being the tracts shown on the plat which is attached to the Plan of Unitization marked Exhibit "B".

5. That each of such tracts located in the unit area shall become subject to the terms and provisions of the Plan of Unitization, participants in the unit production and in the other benefits and burdens of the unit in accordance with the provisions of the Plan of Unitization.

6. The Unit and the Unit operator shall, from time to time, make such reports to the Commission concerning the operation of the unit area as may be requested by the Commission.

(Report of the Commission)

7. The Commission retains continuing jurisdiction over said unit for the purpose of amending, modifying and interpreting the terms and provisions of this Order and the Plan of Unitization of said unit.

8. This Order shall become effective immediately.

Dated this 15th day of April, 1960.

Corporation Commission of Oklahoma

/s/ Ray C. Jones
Ray C. Jones, Chairman

Wilburn Cartwright, Vice-Chairman

/s/ Harold Freeman
Harold Freeman, Commissioner

Attest:
/s/ Carl B. Mitchell
Secretary

APPENDIX C

CONSTITUTIONAL AND STATUTORY PROVISIONS, RULES, INVOLVED

A) Amendment XIV, to the Constitution of the United States, Sec. 1:

"• • • No State shall make or enforce any law which shall abridge the privileges and immunities of citizens of the United States, nor shall any State deprive any person of life, liberty, or property without due process of law; nor deny to any person within its jurisdiction the equal protection of the law."

B) Constitution of the State of Oklahoma, Article II:

Sec. 7. "No person shall be deprived of life, liberty or property without due process of law."

Sec. 23. "No property shall be taken or damaged for private use, with or without compensation, unless by consent of the owner • • •"

Sec. 24. "Private property shall not be taken or damaged for public use without just compensation • • •"

Constitution of the State of Oklahoma, Article IX:

Sec. 20. "The Supreme Court's review of appealable orders of the Corporation Commission shall be judicial only, and in all appeals involving an asserted violation of any right of the parties under the Constitution of the United States or the Constitution of the State of Oklahoma, the Court shall exercise its own independent judgment as to both the law and the facts • • •"

(Constitutional and Statutory Provisions, Rules, Involved)

(C) 52 Oklahoma St. Ann., as follows:

287.1 Legislative Finding

The Legislature finds and determines that it is desirable and necessary, under the circumstances and for the purposes hereinafter set out, to authorize and provide for unitized management, operation and further development of the oil and gas properties to which this Act is applicable, to the end that a greater ultimate recovery of oil and gas may be had therefrom, waste prevented, and the correlative rights of the owners in a fuller and more beneficial enjoyment of the oil and gas rights, protected.

287.2 Power and Authority of Commission

Subject to the limitations of this Act the Corporation Commission of the State of Oklahoma, hereinafter referred to as the "Commission", is hereby vested with jurisdiction, power and authority, and it shall be its duty to make and enforce such orders and do such things as may be necessary or proper to carry out and effectuate the purposes of this Act.

287.3 Matters To Be Found By Commission—Requisites of Petition

If upon the filing of a petition therefor and after notice and hearing, all in the form and manner and in accordance with the procedure and requirements hereinafter provided, the Commission shall find (a) that the unitized management, operation and further development of a common source of supply of oil and gas or portion thereof is reasonably necessary in order to effectively carry on pressure-maintenance or repressuring operations, cycling operations, water flooding operations, or any combination thereof, or any other form of joint effort calculated to substantially increase the ultimate recovery of oil and gas from the common source of supply; and (b) that one or more of said unitized methods of operation as applied to such common source

of supply or portion thereof are feasible, will prevent waste and will with reasonable probability result in the increased recovery of substantially more oil and gas from the common source of supply than would otherwise be recovered; and (c) that the estimated additional cost, if any, of conducting such operations will not exceed the value of the additional oil and gas so recovered; and (d) that such unitization and adoption of one or more of such unitized methods of operation is for the common good and will result in the general advantage of the owners of the oil and gas rights within the common source of supply or portion thereof directly affected, it shall make a finding to that effect and make an order creating the unit and providing for the unitization and unitized operation of the common source of supply or portion thereof described in the order, all upon such terms and conditions, as may be shown by the evidence to be fair, reasonable, equitable and which are necessary or proper to protect, safeguard, and adjust the respective rights and obligations of the several persons affected, including royalty owners, owners of overriding royalties, oil and gas payments, carried interests, mortgagees, lien claimants and others, as well as the lessees. *The petition* shall set forth a description of the proposed unit area with a map or plat thereof attached, *must allege the existence of the facts required to be found by the Commission as hereinabove provided* and shall have attached thereto a recommended plan of unitization applicable to such proposed unit area and which the petitioner or petitioners consider to be fair, reasonable and equitable. (Emphasis added)

(Constitutional and Statutory Provisions, Rules, Involved)

D) General Rules and Regulations, Order No. 19334, October 24, 1946, Corporation Commission of Oklahoma:

Article I, General Rule 1:

"When any proceeding is instituted under the statutes relating to the conservation of oil and gas, and the equitable and ratable taking thereof, the Secretary shall assign to said proceedings a number preceded by the letters "CD" (CD) and a title, and enter the proceedings and date of filing thereof in a separate docket, designated "Conservation Docket." Before the filing of subsequent pleadings or papers in such proceeding, the said number and title thereof shall be placed thereon. The Secretary shall also enter on said docket the date of filing and character of all subsequent pleadings or papers filed in the case."

Article I, General Rule 6:

"The Commission may, in its discretion, allow any pleading to be amended or corrected, or any omission to be supplied."

Article II, Special Rules of Practice and Procedure * * * 4:

"Upon the institution of a proceedings by application, the Commission shall give at least ten (10) days' notice of time and place of hearing thereon by one publication of such notice in a newspaper of general circulation printed at Oklahoma City; * * * In addition to said notice by publication, the Conservation Department shall mail a copy of the Application with advice of the date and hour of hearing, or a copy of the notice of hearing, at least five (5) days prior to such hearing, to each and every producing operator in the State who has previously made written request that all applications filed with the Commission be furnished such operator."

APPENDIX D

EXHIBITS IN ORDER AFFIXED.

First Application—Nov. 13, 1959.

Notice on First Application—Nov. 13, 1959. (R 15).

Second Application—Nov. 16 or 17, 1959. (R 5).

Corporation Commission Docket.

BEFORE THE CORPORATION COMMISSION OF THE STATE OF OKLAHOMA

IN THE MATTER OF THE APPLICATION OF PAN AMERICAN PETROLEUM CORPORATION FOR THE CREATION OF THE EOLA NORTHWEST BLOCK OIL CREEK SAND UNIT, HAVING FOR ITS PURPOSE THE UNITIZED MANAGEMENT, OPERATION AND FURTHER DEVELOPMENT OF A PORTION OF THE OIL CREEK SAND COMMON SOURCE OF SUPPLY IN GARVIN COUNTY, OKLAHOMA

CAUSE CD NO. 12384

2-1-54

APPLICATION

Comes now the Pan American Petroleum Corporation and respectfully petitions the Corporation Commission of the State of Oklahoma for an order creating the Eola Northwest Block Oil Creek Sand Unit, for the purpose of the unitized management, operation and further development of a portion of the Oil Creek sand common source of supply of oil and gas in Garvin County, Oklahoma, and defining the unit area of said unit, and prescribing the Plan of Unitization applicable thereto, all as provided for by 52 O.S.A. 287.1 to 287.15. In support of this application the petitioner respectfully shows:

1. That an Oil Creek sand common source of supply underlies the following described area:

South Half of the South Half of Section 1,

Southeast Quarter of the Southeast Quarter of Section 2,

North Half of the Northeast Quarter of Section 11,

North Half of the North Half of Section 12,

all in Township 1 North, Range 3 West in the Eola Field in Garvin County, Oklahoma.

2. That the lands described in the foregoing paragraph have been defined and determined by actual drilling operations to be productive of oil and gas from the Oil Creek sand common source of supply which underlies said area, and are an area of a size and shape reasonably required for the successful and efficient conduct of unitized methods of operation for which the formation of a unit is sought, and such unitized operations conducted thereon and therein will have no adverse effect upon any remaining portion of such common source of supply.

3. That said area is substantially depleted of oil and gas producible by primary means and the unitized management, operation and further development of the defined portion of said common source of supply of oil and gas is reasonably necessary in order to effectively carry on water flooding or other types of secondary recovery operations, which procedures are calculated to substantially increase the ultimate recovery of oil and gas therefrom; that the injection of water, or other methods of supplementing reservoir energy, are feasible methods of recovering oil and gas from said common source of supply and the use of such methods will, with reasonable probability, result in an increased recovery of substantially more oil from said common source of supply than would otherwise be recovered; that the estimated additional cost of conducting such operations will be less than the value of the additional oil which will be recovered from said common source of supply; that such unitization and the prosecution of such operations under unitized methods will be for the common good and will result in a general advantage to the owners within that portion described in this application, and will prevent waste.

(Emphasis ours)

(First Application
Exh. A

...MMISSION
...KLAHOMA

4. That applicant is the owner of leases within the unit area, and is the lessee designated in the Plan of Unitization as Operator, and alleges that one hundred per cent of all the owners of leasehold therein have joined in the Plan of Unitization, a copy of which is attached hereto and marked Exhibit "A".

5. That the attached Plan of Unitization is suited to the needs and requirements of this unit, which Plan provides for the further development of the unit area under efficient unit procedures. Under the terms of such Unit Plan the further production of oil and gas from the unit will be divided among the several tracts in the unit, according to the table therein set forth, which division was computed as each tract's contribution to the unit, taking into account all factors provided by law.

That the submitted Plan contains all further provisions required by 52 O.S.A. 287.1 to 287.15.

6. That ratifications and consents to such Plan of Unitization have been obtained from more than sixty-three per cent of the owners of basic land owners' minerals, by area, exclusive of minerals owned by lessees.

WHEREFORE, applicant prays: That after notice and hearing as by law provided, the Commission make the necessary findings and enter an order creating the Eola Northwest Block Oil Creek Sand Unit to include the lands described herein, upon such terms and conditions as may be shown by the evidence to be fair, reasonable and equitable, and which are necessary or proper to protect, safeguard and adjudge the respective rights and obligations of the parties affected, including royalty owners, owners of overriding royalties, oil payments, carried interests, mortgages, lien claimants and others, as well as the oil and gas lessees.

DATED this 12th day of November, 19[illegible].

Norton Steinmeyer

T. Murray Robinson

Attorneys for the Applicant

AFFIDAVIT OF PUBLICATION

STATE OF OKLAHOMA,
OKLAHOMA COUNTY } ss.

Kathryn Ratcliffe of lawful age, being duly sworn on oath, deposes and says. That she is the Principal Clerk of THE DAILY LAW JOURNAL-RECORD, a newspaper of general circulation in the State of Oklahoma and printed at Oklahoma City, Oklahoma, regularly, continuously and uninterruptedly published in said County for a period of more than 104 consecutive weeks next prior to the publication of the attached notice, and having a paid circulation therein and with admission to the United States mails as second class mail matter and printed in Oklahoma City, Oklahoma County, where delivered to the United States mail; that said newspaper comes within all of the prescriptions and requirements of Senate Bill No. 47 and specifically Section 1 thereof, enacted by the Nineteenth Legislature of State of Oklahoma, approved April 13, 1943 (Title 25, Chap. 4, Session Laws, 1943) and meets all other requirements of the laws of the State of Oklahoma with reference to legal publications; that the attached notice was published in all regular editions of said newspaper on the following dates:

NOVEMBER 17, 1959

Kathryn Ratcliffe

Subscribed and sworn to before me this 17th

day of NOVEMBER, 1959

Notary Public.

My commission expires March 27, 1962.

PUBLISHER'S FEE $18.40

SM—7-59

(3054A)

NOTICE OF HEARING
Cause (D No. 1344
Before the Corporation Commission of the State of Oklahoma.

In the Matter of the Application of Pan American Petroleum Corporation for the creation of the Kola Northwest Block Oil Creek Sand Unit, [illegible] for its purpose the unitized management, operation and further development of a portion of the Oil Creek Sand common source of supply in Garvin County, Oklahoma.

THE STATE OF OKLAHOMA TO: All Persons, Firms, Corporations, Partnerships, Trusts, Trustees, Guardians, Executors, Administrators, Fiduciaries of every kind, the State of Oklahoma and all Agencies and Subdivisions thereof, and all other beings or entities owning oil and gas rights or otherwise interested in the common source of supply of oil and gas known as the Oil Creek Sand common source of supply underlying the hereinafter described lands located in Garvin County, Oklahoma, or in the production, handling and marketing of the oil and gas that may be located therein or produced therefrom, or having the right to share or participate, either directly or indirectly, in the benefits of such production.

NOTICE IS HEREBY GIVEN that the Pan American Petroleum Corporation, lessee of record in the area of the aforesaid common source of supply of oil and gas, and the lessee designated in the Plan of Unitization as Operator, did on the 11th day of November, 1959, file with the Corporation Commission of the State of Oklahoma at the City of Oklahoma City, Oklahoma, its Application, Cause No. 1344, Kola Northwest Block Oil Creek Sand Unit, praying for its purpose the unitized management, operation and further development of a portion of the Oil Creek Sand common source of supply, defining the unit area of said unit, and prescribing the Plan of Unitization applicable thereto, all as is authorized and provided for by 52 O.S.A. 287.1 to 287.15.

That the lands sought to be included within the unit area of said unit be wholly within the following described sections of land located in Garvin County, Oklahoma, to-wit:

South Half of the South Half of Section 1,
Southeast Quarter of the Southeast Quarter of Section 2,
North Half of the Northeast Quarter of Section 11,
North Half of the North Half of Section 12,
all in Township 1 North, Range 3 West in the Eola Field in Garvin County, Oklahoma.

That said Petition has been set for hearing before the Corporation Commission of Oklahoma in its Court Room, Capitol Office Building, Oklahoma City, Oklahoma, on the 8th day of December, 1959, at 9:00 o'clock, A. M.

That all persons to whom this notice is addressed, and particularly those interested in the Oil Creek Sand common source of supply in Garvin County, Oklahoma, and any and all other persons who claim that they will be affected either by the granting or the denial of said petition, shall have the right to be present and participate in said hearing, and shall be granted the opportunity at said time and place to offer evidence and to be heard: (a) in support of or in opposition to the petition as filed; (b) in regard to the exclusion of land from, or the inclusion of other lands within, the unit area of the proposed unit; (c) in regard to the Plan of Unitization, in whole or in part, to be applicable to such unit and unit area; and (d) in regard to any other matter or thing pertaining to the creation of such unit or the unitized management, operation and further development of the aforesaid common source of supply of oil and gas.

DATED this 13th day of November, 1959.

CORPORATION COMMISSION
OF OKLAHOMA,
RAY C. JONES,
Chairman.
WILBURN CARTWRIGHT,
Vice-Chairman.
HAROLD FREEMAN,
Commissioner.
(Seal)
Attest: CARL B. MITCHELL,
Secretary.
11-17-59

(Emphasis added)

Notice on First Application
(cm 15)

BEFORE THE CORPORATION COMMISSION OF THE STATE OF OKLAHOMA

IN THE MATTER OF THE APPLICATION OF PAN AMERICAN PETROLEUM CORPORATION FOR THE CREATION OF THE EOLA NORTHWEST BLOCK OIL CREEK SAND UNIT, HAVING FOR ITS PURPOSE THE UNITIZED MANAGEMENT, OPERATION AND FURTHER DEVELOPMENT OF A PORTION OF THE OIL CREEK SAND COMMON SOURCE OF SUPPLY IN GARVIN COUNTY, OKLAHOMA

CAUSE CD NO. 12884

APPLICATION

Comes now the Pan American Petroleum Corporation and respectfully petitions the Corporation Commission of the State of Oklahoma for an order creating the Eola Northwest Block Oil Creek Sand Unit, for the purpose of the unitized management, operation and further development of a portion of the Oil Creek sand common source of supply of oil and gas in Garvin County, Oklahoma, and defining the unit area of said unit, and prescribing the Plan of Unitization applicable thereto, all as provided for by 52 O.S.A. 287.1 to 287.15. In support of this application the petitioner respectfully shows:

1. That an Oil Creek common source of supply underlies the following described area:

South Half of the South Half of Section 1,

Southeast Quarter of the Southeast Quarter of Section 2,

North Half of the Northeast Quarter of Section 11,

North Half of the North Half of Section 12,

all in Township 1 North, Range 3 West in the Eola Field in Garvin County, Oklahoma.

2. That the lands described in the foregoing paragraph have been defined and determined by actual drilling operations to be productive of oil and gas from the Oil Creek sand common source of supply which underlies said area, and are an area of a size and shape reasonably required for the successful and efficient conduct of unitized methods of operation for which the formation of a unit is sought, and such unitized operations conducted thereon and therein will have no adverse effect upon any remaining portion of such common source of supply.

3. That in order to delay the depletion of the reservoir energy it is desirable to initiate some form of re-pressuring, and the unitized management, operation and further development of the defined portion of said common source of supply of oil and gas is reasonably necessary in order to effectively carry on re-pressuring or water flooding or other types of secondary recovery operations, which procedures are calculated to substantially increase the ultimate recovery of oil and gas therefrom; that the injection of water, or other methods of supplementing reservoir energy, are feasible methods of recovering oil and gas from said common source of supply and the use of such methods will, with reasonable probability, result in an increased recovery of substantially more oil from said common source of supply than would otherwise be recovered; that the estimated additional cost of conducting such operations will be less than the value of the additional oil which will be recovered from said common source of supply; that such unitization and the prosecution of such operations under unitized methods will be for the common good and will result in a general advantage to the owners within that portion described in this application, and will prevent waste.

(Emphasis ours)

(Second Application)

(cm 4

CORPORATION COMMISSIONER'S DOCKET

APPLICATION OF PAN AMERICAN PETROLEUM CORPORATION FOR THE CREATION OF THE EOLA NORTHWEST BLOCK OIL CREEK SAND UNIT, HAVING FOR ITS PURPOSE THE UNITIZED MANAGEMENT, OPERATION AND FURTHER DEVELOPMENT OF A PORTION OF THE OIL CREEK SAND COMMON SOURCE OF SUPPLY IN GARVIN COUNTY, OKLAHOMA, TOWNSHIP 1 NORTH, RANGE 3 WEST.

CAUSE CD

NO. 12884

Month-Day-Year	
11 13 59	Application
11 17 59	Order Setting Cause for Hearing
11 17 59	Notice of Hearing Setting for December 11, 1959
11 20 59	Proof of Publication
11 23 59	Proof of Publication in Garvin County
12 11 59	Continued to January 7 & 8, 1960
12 15 59	Order Continuing Cause to January 7 & 8, 1960
1 8 60	Continued to February 3 & 4, 1960
1 7 60	Continued to February 3 & 4, 1960
1 12 60	Order Continuing Cause to February 3 & 4, 1960
2 3 60	Continued to March 8 & 9, 1960
2 4 60	Order Continuing Cause to March 8 & 9, 1960
3 9 60	Continued to March 29, 1960
3 10 60	Order Continuing Cause to March 29, 1960

Exh B

Month-Day-Year			
3	29	60	Heard and Taken Under Advisement
4	15	60	Order 42184
4	25	60	Notice of Intention to Appeal and Application to Certify Facts and Record to the Supreme Court
6	10	60	Filed Transcript of Record and Case-Made. Withdrawn for Filing in the Supreme Court
6	13	60	Certificate of Appeal Docket 39187

I, Carl B. Mitchell, Secretary of the Corporation Commission of the State of Oklahoma, hereby certify that the above and foregoing are the official entries in the Corporation Commission's Docket Book in Cause CD No. 12884.

Carl B. Mitchell

Carl B. Mitchell, Secretary

Appendix D, Continued

Oil Creek well sequence and barrels produced.

Basal Oil Creek sand net pay (Isopach) Map (R 263); shows area and well net pay thickness.

Electric log cross section excerpt (R 259), shows comparison of oil sand (red) and water sand (blue) in wells referred to in February 12, 1958, letter; also Carpenter-Ferguson Unit B well. (Enlargement at back of Initial (yellow) Brief.)

Drill stem Test, Willens A2 (R 260); well made oil only down to —10529; Electric log oil column extends down to —10544, shown in red.

Willens A1 Tract 7, Electric log (R 264), no vertical correction made; oil column in red.

List and amount of vertical correction made on other wells (R 252).

Table of Unit participation per cent; also money value of Willens B, Tract 6 and Willens A, Tract 7 (R 271).

OIL CREEK WELL SEQUENCE AND BARRELS PRODUCED

Sequence of Oil Creek Wells	Map Tract No	Date Drilling Started	Date Drilling Finished	Start of Oil Creek Production	Bbls Produced Mar 1955 to Jan 1, 1960
1 Williams 1- (Oil Creek Discovery Well)	3	9-12-53	7-12-54	Duplicate Well not produced	
2* Willens A-1 **No Directional Survey made** **No Vertical Correction made**	7	12-16-53	8-18-54	Duplicate Well not produced	
3 Shippey-Williams	3	6-22-54	11-19-54	Duplicate Well not produced	
4* Carpenter-Ferguson Unit A (Start of Oil Creek Development) 93,720 bbls oil in place	2	10-24-54	3-5-55	3-17-55 Produced	184,563
5* Willens B-1 25,854 bbls oil in place and 28' net pay Defts. **53 ft net pay and 117,315 bbls oil in place Pltfs (54,038 bbls before fault corr)**	6	1-18-55	5-24-55	Withheld for salvage	**(Withheld 178,406 bbls by not producing as an adjunct oil zone. Not added in total)**
6 Carpenter	10	7-31-54	9-13-55	9-14-55 Produced,	163,096
7 Williams 1-A	3	7-18-55	11-9-55	11-15-55 Produced	154,881
8* Carpenter-Ferguson Unit-B 39,765 bbls oil in place and 6' net pay	1	6-30-55	10-30-55	11-20-55 Produced	136,216
9 McKey A-4	9	11-6-55	3-4-56	3-25-56 Produced	148,829
10 Willens A-2	7	1-17-56	6-9-56	6-28-56 Produced	127,921
11 McKey B-2	8	8-11-57	2-3-58	2-14-58 Produced	62,312
12* Willens B-2 7' net pay **est.**	6	2-1-59	7-27-59	Withheld Replacement for Willens B-1	Withheld
		TOTAL BARRELS			977,818

2 * Willens A1, Tract 7: Erroneous Unit participation % which starts June 15, 1960, assigned to Tract 7. Without a vertical correction it is not possible to compute the well sand thickness or the acre ft of pay. (App.)

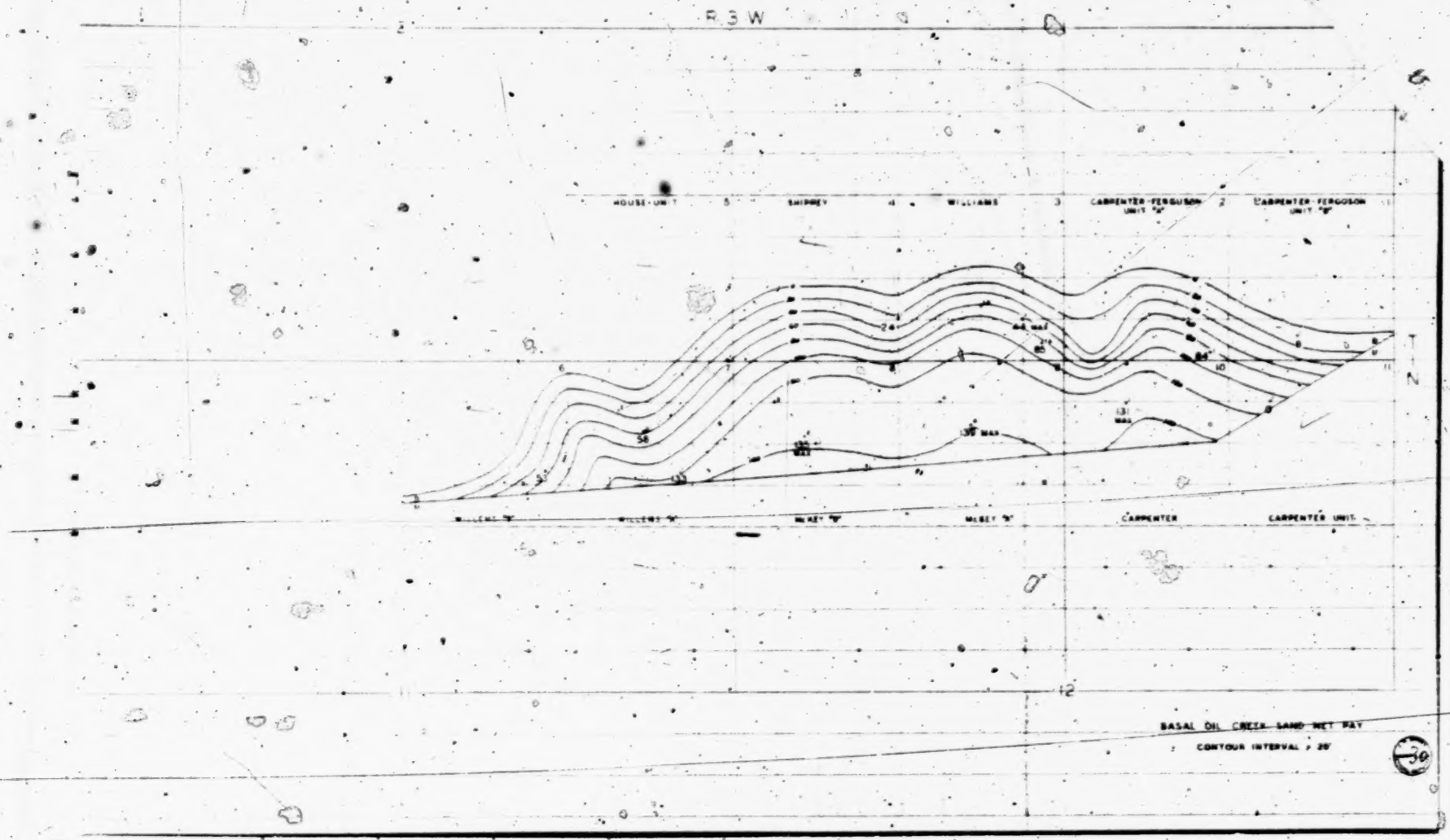
	Barrels in place	Barrels Produced	Bbls over-production
4 * Carpenter-Ferguson Unit A Tr 2:	93,720	184,563	90,843
8 * Carpenter-Ferguson Unit B Tr 1:	39,765	136,216	96,451
Total Barrels	133,485	320,779	187,294

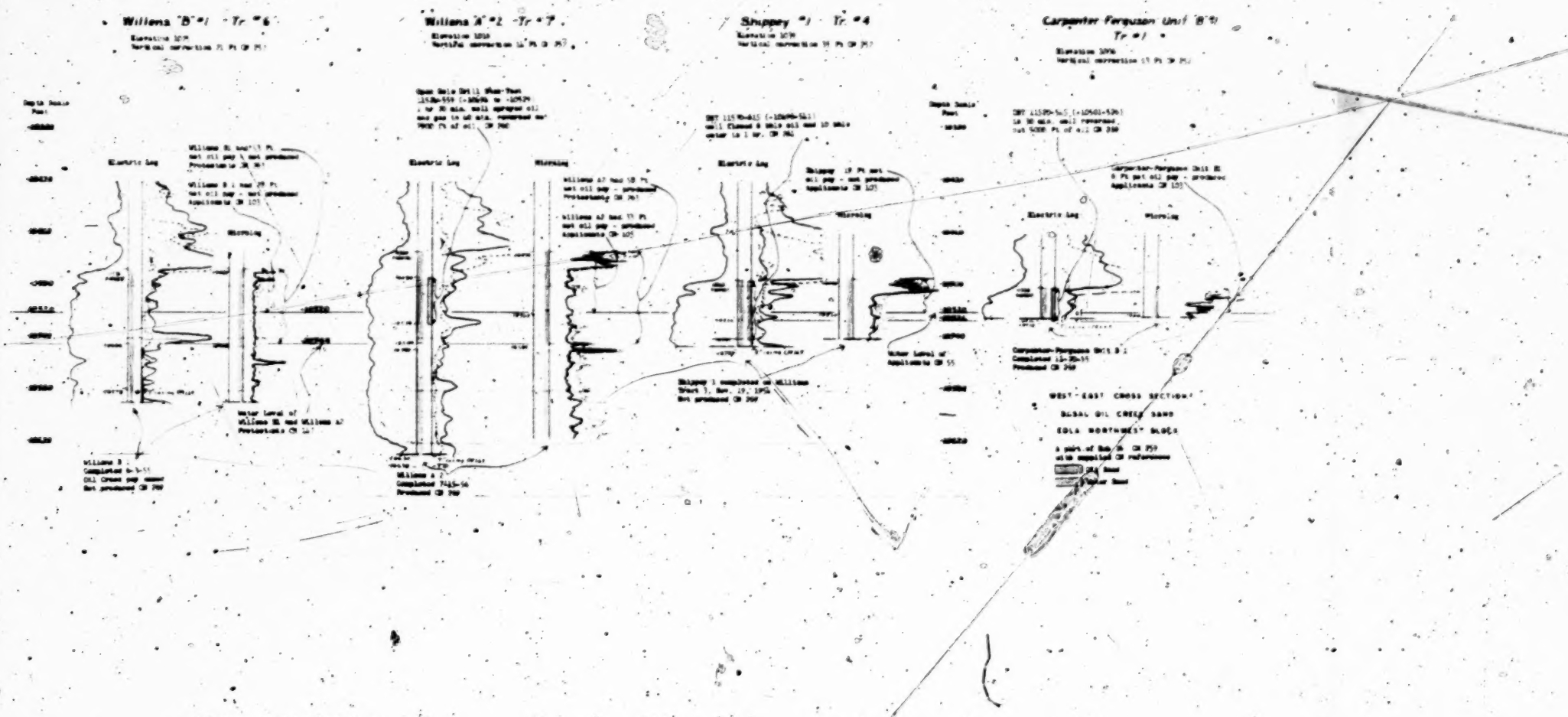
Overproduction is drainage from other wells and leases. The practice was to produce the Oil Creek as an adjunct oil zone under the rule of capture. The first well to be put on production, produced the most oil. 100,000 bbls oil in place to cover cost of drilling, plus a profit, was not required.

5 * Willens B1 Tr 6: The Oil Creek having been recommended by Defendant's District Management to be produced, should not have been withheld by Defendant's Division Management for salvage; thereby it was denied 6.25% well credit in Unit starting June 15, 1960. (App.)

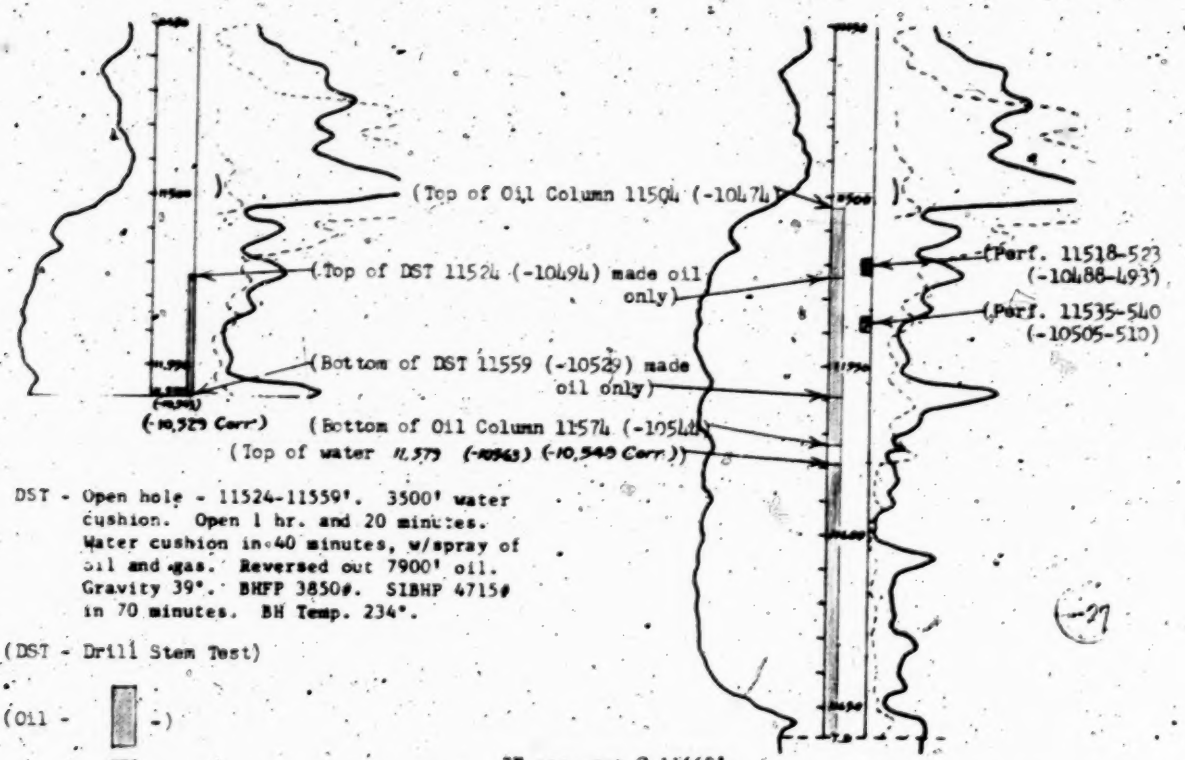
12 * Willens B2 Tr 6, Cost to deepen 500 ft, perforate and produce Oil Creek as an adjunct oil zone with Bromide zone, was $13,792 to get back $77,562 (25,854 bbls at $3) First Brief 21-24; Reply, Brief 8-10; and additional oil under the rule of capture by being produced like the Carpenter-Ferguson Unit A and Unit B wells. The Willens B1 is able to continue to produce the McLish as a single completion and should not be shut in. This is the same method used on Tract 7 and Tract 8.

(Sequence from Corp. Comm well logs; Bbls produced supplied by Defendant)


R 3 W
T 11 N
HOUSE-UNIT
SHIPPEY
WILLIAMS
CARPENTER-FERGUSON UNIT "A"
CARPENTER-FERGUSON UNIT "B"
WILEY "A"
WILEY "B"
CARPENTER
CARPENTER UNIT
BASAL OIL CREEK SAND NET PAY
CONTOUR INTERVAL = 20'


Williams "B" #1 - Tr. #6
Williams "A" #2 - Tr. #7
Shippey #1 - Tr. #4
Carpenter Ferguson Unit "B" #1
Tr. #1
Electric Log
Warning
WEST - EAST CROSS SECTION
GLOAL OIL CREEK SAND
EOLA NORTHWEST BLOCK

STANOLIND #2 "A" Herman Willens
NW NE NE Section 11-1N-3W
Garvin County, Oklahoma
DF Elev: 1016'


(Top of Oil Column 11504 (-10474)
(Top of DST 11524 (-10494) made oil only)
(Bottom of DST 11559 (-10529) made oil only)
(-10,529 Corr')
(Bottom of Oil Column 11574 (-10548)
(Top of water 11,579 (-10563) (-10,569 Corr.))
(Perf. 11518-523 (-10488-493)
(Perf. 11535-540 (-10505-510)

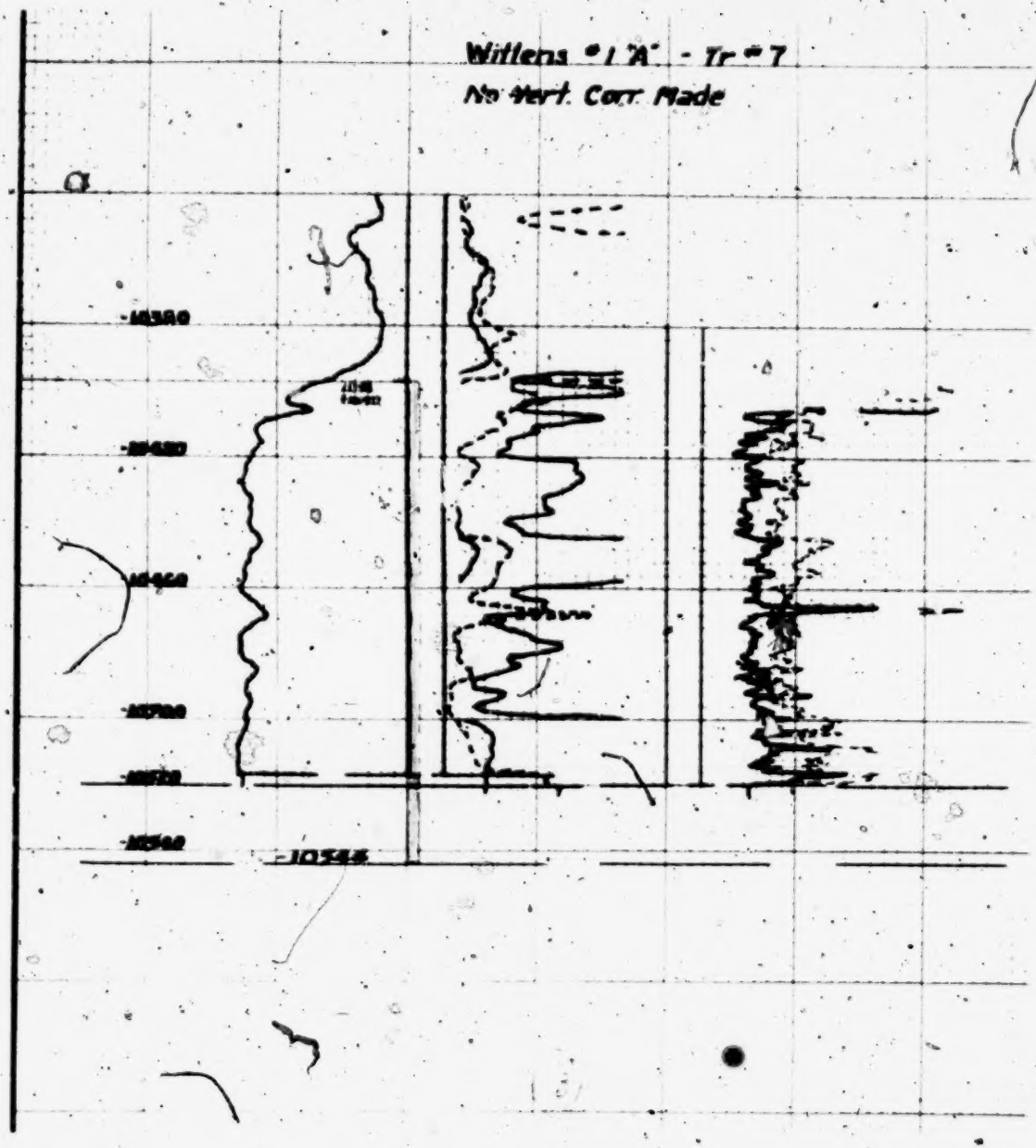
DST - Open hole - 11524-11559'. 3500' water cushion. Open 1 hr. and 20 minutes. Water cushion in 40 minutes, w/spray of oil and gas. Reversed out 7900' oil. Gravity 39°. BHFP 3850#. SIBHP 4715# in 70 minutes. BH Temp. 234°.

(DST - Drill Stem Test)

(Oil -)

(Water -)

7" csg. set @ 11660'.
Perforated 11535-11540'. DST of perfs 11535-540' flowed 50 bbls. of fluid in 8 hrs. 1/4" choke. TP 425# (80% SW, 6% BS&W, 14% oil) BHFP 4955#. SIBHP 5030# in 30 minutes. SQZD perfs 11535-540'.
Perforated 11518-11523'. DST of perfs 11518-523' flowed 75 bbls. oil in 12 hrs. on 10/64" to 12/64" choke. FTP 1500#. Gravity 48°. GOR 461/1. BHFP 4465-4930#. SIBHP 4930 in 2 hrs.


Willens #1 "A" - Tr #7
No Vert. Corr. Made
-10545

19

NORTHWEST BLOCK EOLA FIELD

OIL CREEK SAND

TRACT NO.	LEASE	WELL ELEV.	COR-RECTION
-	Akers Unit #1	1046'	20'
10	Carpenter "A" #1	999"	118'
2	Carpenter-Ferguson Un. "A"	972'	22'
1	Carpenter-Ferguson Un. "B"	1,006'	13'
9	McKey "A" #4	1,045'	17'
8	McKey "B" #2	1,030'	12'
4	Shippey #1	1,039'	35'
7	Willens "A" #2	1,016'	14'
6	Willens "B" #1	1,025'	21'
3	Williams "A" #1	1,020'	32'

EOLA NORTHWEST BLOCK - OIL CREEK UNIT

Tract Leases	Interest Fdn Area	Interest Lease	Tract Factor	Eng' Comm.	Eng' Comm.	Geol. Comm.	Geol. Comm.	L & C	L & C	Tract Participation with Gas	Tract Participation All Fields	Tract Participation under Water Flood	Tract Participation Gas Cap Area	Tract Participation Gas Cap Area
1 Carp-Ferguson "B"			7.997029	247,962	1,708,342	191.00	1,458,514	1 19.464	1 215	7.772117	6.877117			
2 " "A"			9.126613	567,209	4,015,978	845.25	5,561,864	1 19.464	1 12.5	9.927 52	9.034837			
3 Williams			9.961670	761,897	4,319,866	1,417.25	8,011,109	1 19.464	1 12.5	11.152774	10.259772			
4 Shippey			1.921901	404,215	2,859,818	822.25	5,436,868	0 —	0	2.718444	2.718444			
5 House		3.724 24	.852691	44,892	305,382	78.00	332,832	0 —	0	.16141	.16141	.00196	.00601	.00601
6 Willems "B"		11.386 22	2.554210	156,690	1,108,581	327.50	2,157,962	0 —	1 12.5	1.07881	7.32881	.00311	.12264	.82947
7 " "A"		11.386 21	11.331282	1,240,347	8,776,861	2,021.75	13,372,231	1 19.464	1 12.5	13.529.15	12.936.15	.13.298	1.57462	1.47294
8 McKey "B"			19.191206	3,206,998	24,097,911	3,904.25	25,827,774	1 19.464	1 12.5	19.256827	12.963827			
9 McKey A			18.554494	3,578,100	25,316,079	3,127.75	20,602,581	1 19.464	1 12.5	17.945586	14.653586			
10 Carpenter			17.671752	2,936,382	20,063,795	2,096.25	13,038,062	1 19.464	1 12.5	15.641151	13.769121			
11 Carpenter Unit			2.815517	796,630	5,626,199	275.00	3,791.98	0 —	0 —	1.875774	1.875774			
			100.000000	14,134,290	100,000,000	13,178.75	100,000.00	7 19.464	8 12.50	100.000000	100.000.00			
											Mortgage at 6%	1.378805	1.303477	2.313972
											" " 6%	$ 78,204	$ 96,674	$ 131,289
													$ 18,468	$ 53,393

Future Gross Income from 7/1/59 =
$1,891,700 x 23.00 = $35,475,100
.70 = $24,832,570